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February 8, 2005

By E-Filing

The Honorable Denis R. Hurley
United States District Court
100 Federal Plaza
Central Islip, NY 11722

Re: ***Robert Novak v. Overture Services Inc, et al.***
Case No. CV 02 5164

Your Honor:

Plaintiff's February 8, 2005 letter to the Court claims that in my February 7 letter I made "outright mis-statements of facts" with respect to his failure to respond to Google's discovery demands. He attaches a number of letters, three of which are dated months ago but were not received by this office until today. In fact, my February 7 letter is accurate.

Google served Plaintiff with document requests, interrogatories and requests for admission on May 21, 2004. Plaintiff did not respond or object to these requests within the time provided by the Federal Rules of Civil Procedure; indeed, to this day, Plaintiff has not provided Google with any objections, responsive documents or information. Although Plaintiff asked Google for a confidentiality agreement in July 2004, that was long after his discovery responses were due and certainly did not satisfy or stay his obligation to respond to the discovery. By flatly ignoring Google's discovery, Plaintiff admitted Google's request for admissions. He also waived his right to object to any of the discovery requests.

Plaintiff's course of conduct in this action warrants dismissal of his claims against Google with prejudice.

Respectfully,

John L. Slafsky (JS-3212)

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